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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/580,800	02/07/2007	Christine Satchell	1266.1102101	6456
7590 DavidM Crompton Crompton Seager & Tufte Suite 800 1221 Nicollet Avenue Minneapolis, MN 55403			EXAMINER SONG, DAEHO D	
			ART UNIT 2175	PAPER NUMBER
			MAIL DATE 05/28/2009	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/580,800	Applicant(s) SATCHELL, CHRISTINE	
	Examiner DAEHO D. SONG	Art Unit 2175	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 February 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-40 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-40 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 February 2007 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>2/7/07; 5/8/09</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This is the initial Office Action based on the application number 10/580,800, filed February 07, 2007. Claims 1-40, as originally filed with preliminary amendment, are currently pending and have been considered below. Claims 1, 12, 21 and 32 are the independent claims.

Specification

This application does not contain an abstract of the disclosure as required by 37 CFR 1.72(b). An abstract on a separate sheet is required.

The abstract of the disclosure does not commence on a separate sheet in accordance with 37 CFR 1.52(b)(4). A new abstract of the disclosure is required and must be presented on a separate sheet, apart from any other text.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

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1. Claims 1-20 are rejected because the claimed invention is directed to non-statutory subject matter. Claims 1 and 12 recites a “*system*” comprising software components. Thus, the “*system*” recited in Claims 1 and 12 is software *per se*. That is, the “*system*” recited in Claims 1 and 12 lacks the necessary physical articles or objects to constitute a machine or a manufacture within the meaning of 35 USC §101. Also, the “*system*” recited in Claims 1 and 12 is clearly not a series of steps or acts to be a process nor is it a combination of chemical compounds to be a composition of matter. As such, it fails to fall within a statutory category.

Claims 2-11 and 13-20 depend upon Claims 1 and 12, respectively, and merely recite additional features of the software modules.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-40 are rejected under 35 U.S.C. 102(e) as being **clearly** anticipated by Matsuda: U.S. Patent No. 7,086,005.

Matsuda **expressly** teaches:

Claim 1. A communication system comprising:

determining means operable to determine an attribute of a communication device (figs

4-8; col. 15 lines 20-50: determining a telephone number of a mobile telephone);

identifying means operable to identify an avatar by using the attribute, wherein the

avatar is such that it conveys to a viewer thereof information about a person (figs. 4-8;

col. 15 lines 20-50: identifying an avatar by which the name of avatar and the telephone

number are registered); and

communicating means operable to communicate the avatar to the communication

device in a virtual environment (figs. 4-8; col. 15 lines 5-67: communicating the avatar to the mobile telephone in a virtual world).

Claim 2. The communication system as claimed in claim 1, further comprising replacing

means operable to replace the avatar with another avatar (fig. 11; col. 16 lines 48-65:

selecting a different avatar).

Claim 3. The communication system as claimed in claim 2, wherein the identifying

means is operable to identify the avatar by comparing the attribute to a communication

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device identifier that is associated with the avatar (fig. 11; col. 16 lines 48-65: identifying the avatar by different telephone number associated with the avatar).

Claim 4. The communication system as claimed in claim 3, further comprising recording means arranged to allow the person to record the communication device identifier (fig. 11; col. 16 lines 48-65: storing the telephone numbers associated with the name of avatar).

Claim 5. The communication system as claimed in claim 4, wherein the replacing means is further operable to replace the communication device identifier with another communication device identifier (figs. 11-13; col. 16 lines 48-67; col. 17 lines 10-60: selecting different name and telephone number associated with avatar).

Claim 6. The communication system as claimed in claim 5, further comprising selecting means operable to allow the person to select the avatar from a plurality of other avatars (figs. 11-13; col. 16 lines 48-67; col. 17 lines 10-60: selecting a different avatar).

Claim 7. The communication system as claimed in claim 6, wherein the selecting means is further operable to allow the communication device identifier to be selected from a plurality of other communication device identifiers (figs. 11-13; col. 16 lines 48-67; col. 17 lines 10-60: selecting a different name and telephone number of mobile telephone).

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Claim 8. The communication system as claimed in claim 7, wherein the determining means is operable to determine the attribute by processing caller identification data associated with the communication device (figs. 11-13; col. 16 lines 48-67; col. 17 lines 10-60: determining a different telephone number).

Claim 9 The communication system as claimed in claim 8, further comprising messaging means operable to create a text, an audio and/or a video message that is associated with the avatar (figs. 11-13; col. 16 lines 48-67; col. 17 lines 10-60: sending a message text).

Claim 10. The communication system as claimed in claim 9, wherein the avatar and the plurality of other avatars depict an activity that involves the person (figs. 1-11; col. 8 lines 20-40).

Claim 11 The communication system as claimed in claim 10, wherein the communication device comprises a mobile telephone and the attribute comprises a telephone number of the mobile telephone (col. 15 lines 20-50).

*Claim 12. A communication system comprising:
an environment support means operable to support at least one virtual environment that can be accessed by a first person (figs. 11-13; col. 16 lines 48-67; col. 17 lines 10-60:*

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selecting a first person in the virtual world); *and*

a communicating means operable to communicate an avatar in the virtual environment to the first person subsequent to the first person accessing the environment, the avatar being such that it can convey to the first person information about a second person (figs. 11-13; col. 16 lines 48-67; col. 17 lines 10-60: communicating an avatar in the virtual world to the first person carrying information about a second person, such as name).

Claim 13. The communication system as claimed in claim 12, which the environment support means is operable to determine a level of authority associated with the second person, and provide the second person with access to the virtual environment if the level of authority is deemed appropriate (figs. 11-13; col. 16 lines 48-67; col. 17 lines 10-60: providing a level of authority associated with the second person by means of accepting or rejecting the access).

Claim 14. The communication system as claimed in claim 13, wherein the environment support means is operable to allow the first person to assign the level of authority (figs. 11-13; col. 16 lines 48-67; col. 17 lines 10-60: allowing the first person to set up the level of authority).

Claim 15. The communication system as claimed in claim 14, wherein the environment

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support means is such that it allows the first person to arrange the virtual environment such that it has a desired appearance (figs. 11-14).

Claim 16. The communication system as claimed in claim 15, wherein the environment support means is operable to allow the first person and the second person to exchange other information via the virtual environment (figs. 11-13; col. 16 lines 48-67; col. 17 lines 10-60: sending and receiving messages each other).

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Claim 17. The communication system as claimed in claim 16, wherein the other information comprises multi-media content (figs. 11-14; col. 16 lines 48-67; col. 17 lines 10-60: exchanging information using communication tool, including text, image etc.).

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Claim 18. The communication system as claimed in claim 17, wherein the communicating means is further operable to allow the second person to control whether the avatar conveys the information to the first person (figs. 11-13; col. 16 lines 48-67; col. 17 lines 10-60: exchanging information among persons).

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Claim 19. The communication system as claimed in claim 18, wherein the environment support means is operable to allow the first person to access the virtual environment via a communication network, the communicating means also being operable to communicate the avatar in the virtual environment to the first person via the communication network (figs. 11-13; col. 16 lines 48-67; col. 17 lines 10-60).

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Claim 20. The communication system as claimed in claim 19, wherein the information conveyed by the avatar to the first person comprises audio and/or video information (col. 2 lines 1-10; col. 3 lines 55-65).

Claims 21-40:

The subject matter recited in Claims 21-40 corresponds to the subject matter recited in Claims 1-20, respectively. Thus Matsuda discloses every limitation of Claims 21-40, as indicated in the above rejections for Claims 1-20.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DAEHO D. SONG whose telephone number is (571)272-7524. The examiner can normally be reached on Mon-Fri 7:30-5:00pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Bashore can be reached on 5712724088. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Daeho D Song/

Examiner, Art Unit 2175

/William L. Bashore/

Supervisory Patent Examiner, Art Unit 2175